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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,077	07/08/2003	Birgit Kreft	824/40746	8303

7590 06/01/2005  
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EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT PAPER NUMBER

3637

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/614,077

Applicant(s)

KREFT ET AL.

Examiner

James O. Hansen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 7/9/2002. It is noted, however, that applicant has not filed a certified copy of the German application as required by 35 U.S.C. 119(b).

### ***Drawings***

2. The drawings are objected to because the amended figures utilize leader lines with arrows to indicate the referenced element [these leaders should not have arrows on each end], the use of the arrowed leader line may be permitted when a space or area or a collection of elements are being referenced. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

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be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "receiving device" [claim 4] must be shown and properly referenced in the drawings or the feature canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 12 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The recitation “constructed to be elastic” is not described in the disclosure as originally filed and is deemed to constitute new matter. Appropriate correction is required.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 1, the phrase “device for fastening a guide rail, having a web-shaped holding element, to a wall, the device...” is unclear and confusing as presently worded [the following recitation is cited as a suggestion if in line with applicant’s intent - “device for fastening a guide rail to a wall, the guide rail having a web-shaped holding element, the device...”]. In Claim 5, the phrase “combined sliding and swiveling movement” is viewed as being misdescriptive of the embodiments since the element in question does not actually swivel but rather “pivots”. Appropriate correction is required. In Claim 6, the phrase “the upper and lower side walls” does not have a proper antecedent basis. In Claim 8, the phrase “the

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at least one web" does not have a proper antecedent basis. In Claim 9, the phrase "which at least one plugs" is deemed to be unclear and indefinite.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Domenig [U.S. Patent No. 5,636,820]. The examiner has taken the position that the invention is directed towards a fitting, a guide rail and a wall. Domenig (figures 1-8) teaches of the combination of guide rail (note fig. 8) with a web-shaped holding element (22), a wall (44) and a fitting (10); the fitting having an upper wall and a lower wall (note the horizontal wall members as depicted in fig. 2 for example) that are connected on a guiding section (figs. 1-2) of the fitting by a rearward wall (26) and a forward wall (14 or 16), the holding element being adapted to be displaceably received in the guiding section. The fitting having a side wall (52) spaced away from the guiding section and the guide rail being adapted to be continuously displaceable between a first end position in which the guide rail rests against the guiding section [element fully seated within the fitting], and a second end position in which the guide rail rests against the side wall [element adjacent the side wall – not fully seated]. Wherein the element is held in a clamping manner in the guiding section as readily apparent to the examiner, wherein a distance between the side wall and the guiding section of the fitting is smaller than the longitudinal length of the element of the guide

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rail [note fig. 8 for example] as readily apparent to the examiner, wherein the element has two legs (viewed as the leg members on either side of the elongated slot of the element) that can be inserted into a receiving device (note fig. 2) formed on the guiding section as best understood by the examiner, wherein the element is mounted into the guiding section by combining a sliding and pivoting movement as readily apparent to the examiner, wherein the element is guided in an area of the section in an essentially form-locking manner of the fitting (when the element is confined between the walls of the fitting) as readily apparent to the examiner, wherein the section includes a web (viewed as one of the distal ends of elements 14 or 16), and an edge of the web rests on a "profiling" (broadly viewed as the planar section of the element – excluding the flanged members) of the element, wherein at least one plug (24) is shaped onto the rearward wall of the fitting and is fitted into an opening (42) of the wall, wherein the plug has a flange section (46) and the wall is between the flange section and the rearward wall of the fitting after the plug is fitted into the opening (clearly shown in figure 7), wherein the rail is substantially C-shaped in cross section and the element is bent away from a center section of the guide rail (fig. 8), wherein the guiding section is constructed to be elastic (flexible) as best understood by the examiner, and wherein the "profiling" is curved (note the curved outer end of the "profiling" as defined above).

### ***Conclusion***

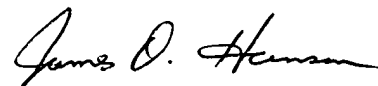
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lautenschlager, Chen et al., Woerner German publication 4124535, and Domenig `033, `490 and `648 describe fastening assemblies for fastening a guide rail to a wall via a bracket / fitting.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can normally be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James O. Hansen  
Primary Examiner  
Art Unit 3637

JOH  
May 27, 2005